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Before the
Federal Communications Commission
Washington, D.C. 20554

JUN - 8 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Advanced Television Systems)
and Their Impact Upon the) RM-9260
Existing Television Broadcast)
Service)

TO: The Commission

**REPLY OF THE
ASSOCIATION FOR MAXIMUM SERVICE TELEVISION, INC.**

The Association for Maximum Service Television, Inc. ("MSTV") files these comments in response to comments on the Petition for Rulemaking filed by the Community Broadcasters Association ("CBA") seeking creation of a new "Class A" television service (the "CBA Petition"). MSTV reiterates its opposition to the CBA Petition and urges the Commission not to initiate the requested rulemaking, at least until the transition to digital television is complete.

**I. THE COMMISSION STRUCK THE RIGHT BALANCE BETWEEN LPTV
AND OTHER COMPETING INTERESTS IN THE DTV PROCEEDING.**

As MSTV noted in its initial filing in this proceeding, the Commission has already given careful consideration to the issue of the secondary status of low power television stations ("LPTVs") and has concluded that it is necessary to maintain that status through the transition to digital television.^{1/} The Commission concluded that it would be

^{1/} See, e.g., Sixth Further Notice of Proposed Rulemaking, MM Docket No. 87-268, FCC 96-

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necessary to maintain LPTVs' secondary status -- and potentially to displace some LPTVs -- to ensure the rapid and successful transition to DTV and the accompanying spectrum recapture.^{2/} In reaching that conclusion, the Commission took into account and carefully balanced the competing interests and concerns of numerous parties.^{3/} Nothing in the CBA Petition or in the filings in support thereof provides a compelling reason for the Commission to upset that balance at this point.

II. UPSETTING THE BALANCE BETWEEN LPTVs AND OTHER INTERESTS AT THIS POINT COULD SERIOUSLY UNDERMINE THE DTV TRANSITION.

The delicate balance embodied in the DTV Table of Allotments/Assignments (the "DTV Table") is reflected in the comments filed in this proceeding. For example, the comments of the National Association of Broadcasters^{4/} and Cox Broadcasting, Inc.^{5/} highlight the concerns of broadcasters generally -- who will drive the transition to digital television by investing in new facilities and equipment and who need to know that the DTV

^{1/}(...continued)

317, 11 FCC Rcd 10968, ¶¶ 64, 66 (adopted July 25, 1996, released Aug. 14, 1996) ("Sixth Further Notice"); Second Report and Order/Further Notice of Proposed Rulemaking, MM Docket No. 87-268, 7 FCC Rcd 3340, ¶¶ 39-41 (1992).

^{2/} See, e.g., Sixth Report and Order, MM Docket No. 87-268, FCC 97-115, 12 FCC Rcd 14588, ¶ 141 (adopted April 3, 1998, released April 21, 1997) ("Sixth R&O") ("In providing all full service TV stations with a second DTV channel, we have . . . found that it will be necessary to displace a number of LPTV and TV translator operations [T]here is simply not enough available spectrum to preserve all existing translator and LPTV stations.").

^{3/} See Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order, MM Docket No. 87-268, FCC 98-24, ¶ 12 (adopted Feb. 17, 1998, released Feb. 23, 1998) ("MO&O on Reconsideration of Sixth R&O") ("[T]he DTV allotments are the product of a balancing among many different interests and goals, such as the recovery of channels 60-69, protection of land mobile service, replication of NTSC service, minimization of interference, etc.").

^{4/} Comments of the National Association of Broadcasters, RM-9260 (May 22, 1998).

^{5/} Comments of Cox Broadcasting, Inc., RM-9260 (May 22, 1998).

Table adopted in February (along with its basic assumptions) is at last final. The comments of the Association of America's Public Television Stations identify concerns, not limited solely to public television broadcasters, related to the displacement of translators and expectations for expansion and improvement of coverage and facilities during the DTV transition.^{6/} All broadcasters spearheading the digital revolution are entering uncharted territory; how they navigate that territory will determine the fate of the broadcasting business and the public's access to universal, free, over-the-air television service. The flexibility that broadcasters will have in implementing DTV is already significantly constrained by the DTV spectrum shortage and the reallocation of channels 60-69 for public safety uses. What flexibility remains for stations to adapt their services and facilities must be preserved. The requests made in the CBA Petition, if granted, would critically constrain this flexibility and would raise serious doubts about whether each station's community will actually receive the DTV service it has been promised by the DTV rulemaking process. Even the mere initiation of a rulemaking in response to the CBA Petition would create destructive uncertainties about the DTV roll-out.

The interests of non-television users of the scarce broadcast spectrum, reflected in the filings of the Association of Public-Safety Communications Officials-International, Inc. and Motorola,^{7/} similarly support the maintenance of the status quo of LPTVs. These comments highlight the importance of ensuring the rapid transition to digital television that

^{6/} Comments of the Association of America's Public Television Stations, RM-9260 (May 22, 1998).

^{7/} See Partial Opposition to Petition for Rulemaking of the Association of Public-Safety Communications Officials-International, Inc., RM-9260 (May 22, 1998); Comments of Motorola, RM-9260 (May 22, 1998).

will enable the Commission to recapture scarce spectrum and make it available for other important uses, such as public safety and land mobile communications. Granting the CBA Petition would slow the transition to DTV by throwing a basic premise of the DTV Table into question and provoking a counter-productive race to file applications that may not be ripe.

III. THE LPTV COMMENTERS HAVE NOT PROVIDED ANY COMPELLING REASON WHY THE COMMISSION SHOULD UPSET THE ENTIRE DTV ALLOTMENT/ASSIGNMENT STRUCTURE AT THIS TIME.

Low power television stations that filed comments in support of the CBA Petition, many of which raise concerns about displacement during the DTV transition, have interests which compete with the Commission's and Congress's desire for a quick and complete rollout of DTV.^{8/} But the Commission took those interests into account when it adopted the DTV Table, making adjustments in the Table where possible to preserve LPTVs from displacement^{9/} and amending the rules to minimize LPTV displacement and facilitate the transfer of displaced LPTVs to replacement channels.^{10/}

The comments filed by individual LPTVs and translator stations do not offer any persuasive reason why the steps the Commission took to mitigate the adverse effects of the transition on LPTVs or the balance the Commission struck in adopting the DTV Table should be upset. For the most part, the comments describe the local programming contributions LPTVs make to the communities they serve and note that the proposed "Class

^{8/} See, e.g., Comments of Folse Communications, L.L.C., RM-9260 (May 22, 1998); Comments of Kentucky New Era, Inc., RM-9260 (May 20, 1998); Comments of KGBS Corporation, RM-9260 (May 22, 1998); Comments of Montgomery Communications, Inc., RM-9260 (May 15, 1998).

^{9/} See MO&O on Reconsideration of Sixth R&O ¶ 107.

^{10/} MO&O on Reconsideration of Sixth R&O ¶¶ 115, 120; Sixth R&O ¶¶ 144-147.

A" status would provide LPTVs with additional financial security that may enable them to improve and expand upon those contributions. The Commission took full account of the local programming contributions made by LPTVs when it sustained their secondary status in the DTV proceeding,^{11/} and, as noted, took steps to protect their ability to make those contributions wherever it was possible to do so without undermining the overall goal of ensuring the rapid and efficient transition to DTV.

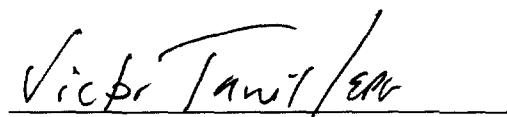
The Commission is -- and always has been -- well aware of the financial risks faced by LPTVs and translators because of their secondary status. However, it has determined that those risks -- and the displacement of various low power stations -- are insufficient to justify altering their secondary status. Moreover, LPTVs themselves have also been aware of the risks accompanying their secondary status, and obviously have not found those risks so severe as to deter them from establishing low power services. Nothing in the comments suggests that those risks are sufficiently heightened at this time to justify a radical reconsideration of LPTVs' secondary status. Such reconsideration is particularly inadvisable at a time when the grant of some measure of primary status could seriously undermine the critical transition to DTV.

^{11/} See, e.g., MO&O on Reconsideration of Sixth R&O ¶ 105; Sixth R&O ¶ 114; Sixth Further Notice ¶ 67.

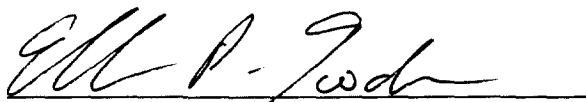
For the reasons stated in MSTV's initial filing and above, the Commission should deny the CBA Petition.

Respectfully submitted,

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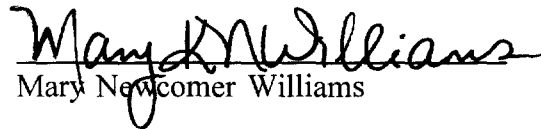
DATED: June 8, 1998

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Opposition of the Association for Maximum Service Television, Inc. has been served by first class mail, postage prepaid, this 8th day of June, 1998 on:

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